

passenger services to the public (MC-31422). Dairyland, a corporation established under Wisconsin law, also holds a FMCSA license (MC-170747) and is owned by Coach USA, Inc., a Delaware corporation and noncarrier. The core business of both Student Transportation and Dairyland is transporting students to and from school, a type of transportation not subject to Board jurisdiction. See 49 U.S.C. 13506(a)(1). According to the application, approximately 97 percent of Student Transportation's revenue is derived from school bus services exempt from FMCSA licensing jurisdiction; the remaining 3 percent is derived from incidental charter operations that do require FMCSA authority if they are interstate in nature. Similarly, the application indicates that Dairyland derives the vast majority of its revenue from exempt school bus transportation, with the remainder involving incidental charter operations. The application states that FMCSA-regulated charter and special operations have accounted for an insignificant percentage of Student Transportation's and Dairyland's total revenues.

Under the proposed transaction, Student Transportation seeks permission to acquire all of the shares of Dairyland. According to the application, the shares of Dairyland were anticipated to be transferred on or about November 14, 2011, from their current owner, Coach USA, Inc., into an independent voting trust established under 49 CFR pt 1013—*Guidelines for the Proper Use of Voting Trusts*, where they would remain until the proposed transaction is dismissed by Student Transportation or disapproved by the Board, or until Board approval is final and effective.

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction it finds consistent with the public interest, taking into consideration at least: (1) The effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees. Student Transportation has submitted information, as required by 49 CFR 1182.2, including the information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b), and a statement that the 12-month aggregate gross operating revenues of Student Transportation and Dairyland exceeded \$2 million.

Student Transportation states that the proposed transaction will have no significant impact on the adequacy of transportation services available to the

public because Student Transportation has no intention of substantially changing the physical operations historically conducted by Dairyland. With respect to fixed charges, Student Transportation states that the proposed transaction will reduce not only interest costs but also a variety of other overhead and variable costs that Dairyland might otherwise bear. According to Student Transportation, the transaction will have a positive impact on employee interests, as the economies and efficiencies resulting from the proposed transaction, will directly benefit Dairyland's employees by maintaining job security and retaining or expanding the volume of available work. Additional information, including a copy of the application, may be obtained from Student Transportation's representative.

On the basis of the application, the Board finds that the proposed acquisition of control is consistent with the public interest and should be tentatively approved and authorized. If any opposing comments are timely filed, this finding will be deemed vacated, and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. See 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this notice will take effect automatically and will be the final Board action.

The party's application and Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

*It is ordered:*

1. The proposed finance transaction is approved and authorized, subject to the filing of opposing comments.
2. If opposing comments are timely filed, the findings made in this notice will be deemed as having been vacated.
3. This notice will be effective January 27, 2012, unless opposing comments are timely filed.
4. A copy of this decision will be served on: (1) U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue NW., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590.

Decided: December 8, 2011.

By the Board, Chairman Elliott, Vice Chairman Begeman, and Commissioner Mulvey.

**Jeffrey Herzig,**

*Clearance Clerk.*

[FR Doc. 2011-32057 Filed 12-13-11; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[Docket No. FD 35575]

#### **Watco Holdings, Inc.—Continuance in Control Exemption—Swan Ranch Railroad, L.L.C.**

Watco Holdings, Inc. (Watco) has filed a verified notice of exemption pursuant to 49 CFR 1180.2(d)(2) to continue in control of Swan Ranch Railroad, L.L.C. (SRR), upon SRR's becoming a Class III rail carrier.<sup>1</sup>

This transaction is related to a concurrently filed verified notice of exemption in Docket No. FD 35574, *Swan Ranch Railroad, L.L.C.—Operation Exemption—Swan Industrial Park*, wherein SRR seeks Board approval to operate 17,192 feet of track located within the Swan Industrial Park, in Cheyenne, Wyo., including Track Numbers 101, 105, and 109.

Watco intends to consummate the transaction on or shortly after December 28, 2011 (the effective date of this notice).

Watco currently controls 23 Class III rail carriers: Southern Kansas and Oklahoma Railroad, Inc.; Palouse River & Coulee City Railroad, L.L.C.; Timber Rock Railroad, L.L.C.; Stillwater Central Railroad, L.L.C.; Eastern Idaho Railroad, L.L.C.; Kansas & Oklahoma Railroad, L.L.C.; Pennsylvania Southwestern Railroad, L.L.C.; Great Northwest Railroad, L.L.C.; Kaw River Railroad, L.L.C.; Mission Mountain Railroad, L.L.C.; Mississippi Southern Railroad, L.L.C.; Yellowstone Valley Railroad, L.L.C.; Louisiana Southern Railroad, L.L.C.; Arkansas Southern Railroad, L.L.C.; Alabama Southern Railroad, L.L.C.; Vicksburg Southern Railroad, L.L.C.; Austin Western Railroad, L.L.C.; Baton Rouge Southern Railroad, L.L.C.; Pacific Sun Railroad, L.L.C.; Grand Elk Railroad, Inc.; Alabama Warrior Railway, L.L.C.; Boise Valley Railroad, L.L.C.; and Autauga Northern Railroad, L.L.C. The 23 Class III rail carriers operate rail lines in 18 States.

Watco represents that: (1) The rail lines to be operated by SRR do not connect with any other railroads in the

<sup>1</sup> Watco owns 100% of the outstanding membership interests of SRR.

Watco corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the rail lines to be operated by SRR with any other railroad in the Watco corporate family; and (3) the transaction does not involve a Class I rail carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here because all of the carriers involved are Class III carriers.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed no later than December 21, 2011 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35575, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Karl Morell, Of Counsel, Ball Janik, LLP, Suite 225, Fifteenth Street NW., Washington, DC 20005.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: December 9, 2011.

By the Board.

**Rachel D. Campbell,**

*Director, Office of Proceedings.*

**Raina S. White.**

*Clearance Clerk,*

[FR Doc. 2011-32068 Filed 12-13-11; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[Docket No. FD 35574]

#### Swan Ranch Railroad, L.L.C.— Operation Exemption—Swan Industrial Park

Swan Ranch Railroad, L.L.C. (SRR),<sup>1</sup> a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to operate, pursuant to an agreement with Cheyenne Logistics Hub, LLC (CLH), all the track located within the Swan Industrial Park, in Cheyenne, Wyo. The track over which SRR will operate is approximately 17,192 feet long and includes Track Numbers 101, 105, and 109.<sup>2</sup>

This transaction is related to a concurrently filed verified notice of exemption in Docket No. FD 35575, *Watco Holdings, Inc.—Continuance in Control Exemption—Swan Ranch Railroad, L.L.C.*, wherein Watco seeks Board approval to continue in control of SRR, upon SRR's becoming a Class III rail carrier.

Applicant states that the agreement between SRR and CLH does not contain any provision that prohibits SRR from interchanging traffic with a third party or limits SRR's ability to interchange with a third party.

The transaction may be consummated on or after December 28, 2011 (30 days after the notice of exemption was filed).

SRR certifies that its projected annual revenues as a result of the transaction will not result in SRR's becoming a Class II or Class I rail carrier and will not exceed \$5 million.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed by December 21, 2011 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35574, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Karl Morell, Of Counsel, Ball Janik LLP, Suite 225, 655 Fifteenth Street, NW., Washington, DC 20005.

<sup>1</sup> SRR is a wholly owned, indirect subsidiary of Watco Holdings, Inc. (Watco).

<sup>2</sup> According to SRR, there are no mileposts associated with the tracks.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: December 9, 2011.

By the Board.

**Rachel D. Campbell,**

*Director, Office of Proceedings.*

**Raina White,**

*Clearance Clerk.*

[FR Doc. 2011-32093 Filed 12-13-11; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[Docket No. FD 35504]

#### Union Pacific Railroad Company— Petition for Declaratory Order

**AGENCY:** Surface Transportation Board.

**ACTION:** Institution of declaratory order proceeding; request for comments.

**SUMMARY:** In response to a petition filed by Union Pacific Railroad Company (UP) on April 27, 2011, the Board is instituting a declaratory order proceeding under 49 U.S.C. 721 and 5 U.S.C. 554(e). UP requests that the Board issue a declaratory order to resolve a controversy regarding the reasonableness of the indemnification provisions in UP's tariff relating to transportation of toxic by inhalation hazardous commodities (TIH). The Board seeks public comment on the issues raised in this case.

**DATES:** Any person who wishes to participate in this proceeding as a party of record (POR) must file, no later than December 27, 2011, a notice of intent to participate. Opening evidence and argument from all PORs is due on January 25, 2012. Reply evidence and argument from all PORs is due on March 12, 2012. Rebuttal evidence and argument from all PORs is due on March 26, 2012.

**ADDRESSES:** Any filing submitted in this proceeding must be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E-FILING link on the Board's Web site, at <http://www.stb.dot.gov>. Any person submitting a filing in the traditional paper format should send an original and 10 copies (and also an electronic version), referring to Docket No. FD 35504, to: Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001. In addition, 1 copy of each filing in this proceeding must be sent (and may be sent by email if service by email is